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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,265	01/14/2002	Leslie Michael Lea	WLJ.056CIP	5387

20987 7590 11/02/2010

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EXAMINER	
ALEJANDRO MULERO, LUZ L	

ART UNIT	PAPER NUMBER
1716	

NOTIFICATION DATE	DELIVERY MODE
11/02/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/043,265	LEA ET AL.	
	Examiner	Art Unit	
	Luz L. Alejandro	1716	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *19 October 2010*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: The period for reply expires 6 months from the mailing date of the final rejection due to the three months extension of time filed by applicant on 10/19/10.

/Luz L. Alejandro/
Primary Examiner, Art Unit 1716

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the apparatuses of the Campbell et al., Maeda et al., and Boswell references do not attenuate ions by directing a portion of the ions to a loss surface of either chamber. The examiner respectfully disagrees with such a statement and directs applicant to page 44, lines 7-15 of the specification of the instant invention, wherein fig. 18 is described, the apparatus of fig. 18 has a magnetic field production device 8 for attenuating ions by directing a portion of the ions to the wall. It should be noted that the structure of the magnetic field device 8 of the apparatus of Fig. 18 of the instant claimed invention is similar to at least the magnetic field production device 34 of the apparatus of Campbell et al.. Therefore, one of ordinary skill in the art at the time the invention was made would have expected attenuation of the ions by the magnetic field production device 8 of the apparatus of the Campbell et al. reference. Furthermore, in paragraph 8 of the Lea declaration, it is stated that "The means for reducing the number of ions that reach the wafer may be an electromagnet operated from a DC power supply. The electrical current from the power supply may be set to give a chosen magnetic field strength and the level of this magnetic field strength determines the degree of reduction (attenuation) in the number of ions that reach the wafer compared to the number produced in the plasma source.". It should be noted that: a) the magnetic field production devices of at least the apparatus of Boswell and of Maeda et al. are electromagnets, b) the magnetic field production devices of at least the apparatus of Boswell are electromagnets operated from a DC power supply wherein the electrical current from the power supply may be set to give a chosen magnetic field strength; and c) the claims of the instant invention do not require an electromagnet operated from a DC power supply. Additionally, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art, if the prior art structure is capable of performing the intended use then it meets the claim. Note that, for the reasons presented above, the apparatuses of at least the Campbell et al., Maeda et al. and Boswell references are capable of attenuating the ions by directing a portion of the ions to a loss surface of either chamber, and furthermore, the apparatuses of at least the Campbell et al., Maeda et al. and Boswell references meet the structure requirements of the broadly claimed plasma processing apparatus. Therefore, the rejections of the claims using the Campbell et al., Maeda et al. and Boswell references are respectfully maintained.

With respect to the arguments regarding paragraph 4 of the declaration of Dr. Leslie Lea (already of record), it should be noted that the broad language of the claims of the instant invention do not exclude an apparatus comprising the plasma sources of the Campbell et al., Maeda et al. and Boswell references (note the broadly claimed language of "plasma inducing device" in independent claims 1 and 23), and therefore, the rejection of the claims using these references are respectfully maintained.